

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOHN MAURICE MCDONALD,)
)
Plaintiff,)
)
v.) **Case No. 1:24-CV-91**
)
ROBERT MARSH, et al,)
)
Defendants.)

MEMORANDUM ORDER

This action was received by the Clerk of Court on March 29, 2024. The matter was assigned and later referred to United States Magistrate Judge Patricia L. Dodge, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

In his Amended Complaint, Plaintiff, acting pro se, alleges that his constitutional rights were violated in multiple ways during his incarceration at SCI Forest. As Defendants, he names Robert Marsh, the Deputy Secretary for the Central Region and seven correctional defendants at SCI Forest: Superintendent Randy Irwin, Lieutenants Jamie Walker and Steve Haggerty, Sergeants Lesko and Frederickson, and Correctional Officers Brown and Martt.

In response to the Amended Complaint, the named Defendants, represented jointly, filed a motion to dismiss. ECF No. 35.

By Report and Recommendation filed on May 6, 2025, Magistrate Judge Dodge recommended that the motion to dismiss be granted in part and denied in part. To date, no objections to the Report and Recommendation have been filed by any party. Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in

part—the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Local Rule 72(D)(2).

After *de novo* review of the documents in the case, together with the motion to dismiss, opposition thereto, and the Report and Recommendation, the following order is entered:

AND NOW, this 13th day of June 2025;

IT IS ORDERED that the motion to dismiss [ECF No. 35] is granted in part, in the following respects only:

1. Dismissal with prejudice of all claims against the Defendants in their official capacities.
2. To the extent that Plaintiff attempted to plead a conspiracy claim, dismissal without prejudice and with leave to amend.
3. Dismissal of Plaintiff's claims against Defendants Brown and Martt without prejudice and with leave to amend.

In all other respect, the motion to dismiss is denied.

IT IS FURTHER ORDERED that the Report and Recommendation of Magistrate Judge Dodge, issued on May 6, 2025 [ECF No. 54], is adopted as the opinion of this Court.

By separate Order of Magistrate Judge Dodge, Plaintiff will be permitted to file an amended complaint.


SUSAN PARADISE BAXTER
United States District Judge